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SENATE

REPORT
No. 91-1095

ARIE ABRAMOVICH

AUGUST 12 (legislative day, AUGUST 11), 1970.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 1943]

The Committee on the Judiciary, to which was referred the bill (S. 1943) for the relief of Arie Abramovich, having considered the same reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of the bill is to repeal Private Law 87-523 in order to restore the beneficiary's immigration status to that which existed prior to the enactment of the said law to make him eligible to apply for suspension of deportation.

STATEMENT OF FACTS

The beneficiary of the bill is a 45-year-old native and citizen of Israel who last entered the United States as a visitor for business on January 20, 1956. He remained longer than permitted and was found deportable. However, Private Law 87-523 enacted in his behalf provided for the cancellation of the deportation proceedings, but specifically provided that the provisions of section 315 of the Immigration and Nationality Act should not be waived. The repeal of that act would restore the beneficiary to the status that existed prior to its enactment, thereby making him eligible to apply for suspension of the deportation order and eventual adjustment of his immigration status.

A letter, with attached memorandum, dated August 18, 1969, to the chairman of the Senate Committee on the Judiciary from the Commissioner of Immigration and Naturalization with reference to the bill reads as follows:

U.S. DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., August 18, 1969.

A–5420620.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR SENATOR: In response to your request for a report relative to the bill (S. 1943) for the relief of Arie Abramovich, there is attached a memorandum of information concerning the beneficiary. According to the records of this service, the beneficiary's name was legally changed to Arie Aviv from Arie Abramovich.

The bill would repeal Private Law 87–523 enacted in behalf of the beneficiary which provided for the cancellation of deportation proceedings against him and directed that he should not again be subject to deportation solely by reason of the same facts upon which such deportation proceedings were commenced. The bill is apparently intended to restore the beneficiary's immigration status to that which existed prior to the enactment of the aforementioned law so that he would be eligible to apply for suspension of deportation.

Sincerely,

RAYMOND F. FARRELL, *Commissioner.*

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE S. 1943

The beneficiary, Arie Aviv, is a native and citizen of Israel, born on June 14, 1925. He has the equivalent of a high school education. Mr. Aviv is married to the former Eva Popper, a U.S. citizen, and they have three children who are also citizens of this country. The family resides in New York, City where the beneficiary is part-owner of an electronics concern, earning about $20,000 a year. His assets approximate $50,000. Mr. Aviv's parents, a brother and two sisters are also citizens and residents of the United States.

The beneficiary first entered this country as a temporary visitor on October 31, 1939, and returned to his native country in May 1947. On June 28, 1943, he was placed in class 1–A by the Selective Service System. He thereafter filed a form D.S.S. 301 on October 8, 1943, requesting exemption from military service as a citizen of a neutral country, Palestine. His application for relief was granted and he was placed in class 4–C.

The beneficiary last entered this country at New York, N.Y., on January 20, 1956, and was admitted as a visitor for business. He received extensions until December 25, 1956. Mr. Aviv's application for adjustment of status to that of a permanent resident under the provisions of section 245 of the Immigration and Nationality Act was denied on October 30, 1957, on the ground that he was excludable from the United States under section 212(a)(22) of the Immi-

gration and Nationality Act because he is ineligible to citizenship pursuant to section 315 of the act for having applied for and received exemption from military service on the ground of alienage. This decision was affirmed on February 17, 1958, by the Regional Commissioner, Burlington, Vt. A motion for reconsideration of this action was thereafter denied on July 18, 1960.

Deportation proceedings were instituted against the beneficiary on the ground that he had remained in the United States for a longer time than permitted. After a hearing, he was found deportable as charged and was granted the privilege of voluntary departure with the alternative of deportation if he should fail to depart when required. Upon his failure to leave, a warrant of doportation was issued on November 19, 1959.

On June 24, 1957, the beneficiary instituted an action for declaratory judgment in the U.S. District Court, Washington, D.C. This action culminated on April 5, 1963, when the parties consented to its dismissal without prejudice.

Private bill S. 2736, 87th Congress, introduced in behalf of the beneficiary, passed the Congress and was enacted into law on August 31, 1962 (Private Law 87–523). The law provided for the cancellation of deportation proceedings against the beneficiary and directed that he should not again be subject to deportation solely by reason of the same facts upon which such deportation proceedings were commenced. Furthermore, it specifically provided that the provisions of section 315 of the Immigration and Nationality Act should not be waived. In the event this law were repealed, the beneficiary's status would be restored to that which existed prior to its enactment. He would then be eligible to apply for suspension of deportation pursuant to section 244 of the Immigration and Nationality Act on the basis of his continuous physical presence in the United States for over 7 years.

On May 4, 1964, the beneficiary's application for advance permission to return to an unrelinquished domicile pursuant to section 212(e) of the Immigration and Nationality Act was denied on the ground that he was not a lawful permanent resident of the United States as required by the statute.

Private bills S. 2859, 85th and S. 701, 86th Congress, and H.R. 14327, 90th Congress, which were intended to grant the beneficiary permanent residence, failed of enactment.

Senator Robert C. Byrd, the author of the bill, has submitted the following statement to the Senate Committee on the Judiciary with reference to the case:

STATEMENT

S. 1943, introduced in behalf of Arie Abramovich, if enacted, would repeal Private Law 87–523. While this private law had the effect of canceling his outstanding deportation proceedings, it merely permitted him to remain in the United States and did not provide for a permanent status.

There is a procedure available to certain deportable aliens through which they may obtain an adjustment of their immigration status to that of permanent residence. It must be shown that deportation would result in extreme hardship to the alien or to his spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence. In addition, the alien must be a person of good moral character, must have resided in the United States for 7 years, and must, at the time of application, be in a deportable status.

Mr. Abramovich appears to be ineligible for this relief, however, because he is no longer in a deportable status, having been the beneficiary of a private law canceling such proceedings. By repealing Private Law 87–523, he will be in a position to make application to the Attorney General for relief under the provisions of section 244(a)(1) of the Immigration and Nationality Act for the purpose of adjusting his status to that of permanent residence in the United States.

In addition, the following information was contained in Senate Report 1238 of the 87th Congress with reference to S. 2736, which was a bill passed by the Senate for the relief of the same beneficiary:

The beneficiary of the bill is a 36-year old native and citizen of Israel, who last entered the United States on January 20, 1956, as a visitor for business. He first entered the United States on October 31, 1939, as a visitor. On October 8, 1943, the beneficiary applied for relief from service in the Armed Forces of the United States on the ground that he was a citizen of Israel, a neutral country. In May 1947, the beneficiary departed and served honorably in the Israeli Army from 1948 to 1950. The beneficiary is married to a lawful permanent resident of the United States. One of the couple's three children is a citizen of the United States. His parents, two sisters, and a brother are U.S. citizens. The beneficiary manages the Liberty Electronics Co., of which his father is president. Under the terms of the bill, the beneficiary will merely be permitted to remain in the United States, but he may not obtain U.S. citizenship. On December 12, 1961, the beneficiary's complaint seeking declaratory judgment of eligibility for adjustment of status to that of a permanent resident was dismissed.

The following information was contained in Senate Report 132, 86th Congress, to accompany S. 701, which was a similar bill that passed the Senate for the relief of the same beneficiary during the 86th Congress:

DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., December 9, 1957.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR SENATOR: In response to your request for a report relative to the bill (S. 2859) for the relief of Arie Abramovich and Rivka Popper Abramovich, there is attached a memorandum of information concerning the beneficiaries. This memorandum has been prepared from the Immigration and Naturalization Service files relating to the beneficiaries by the New York, N.Y., office of this service, which has custody of those files.

The bill would grant the beneficiaries permanent residence in the United States upon payment of the required visa fee. It would also direct that two numbers be deducted from the appropriate immigration quotas.

The male beneficiary is chargeable to the quota for Palestine, and the female beneficiary is chargeable to the quota for Czechoslovakia.

Sincerely,

J. M. SWING, *Commissioner.*

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE ARIE ABRAMOVICH AND RIVKA POPPER ABRAMOVICH, BENEFICIARIES OF S. 2859

The beneficiaries, Arie Abramovich and his wife, Rivka Abramovich, nee Popper, citizens of Israel, were born in Palestine and Czechoslovakia on June 14, 1925, and August 14, 1925, respectively. They reside in New York City with their three minor children, one of whom is a native-born citizen of the United States. Mrs. Abramovich is a housewife. Mr. Abramovich is employed as an electronic engineer and manager and earns $1,000 a month. Mr. and Mrs. Abramovich are high school graduates. Mr. Abramovich also attended the RCA Institute of Radio and Television in New York City from 1943 to 1945. Their assets total $21,500, which include securities and bonds valued at $12,000, and from which they derive $1,000 per year. Mr. Abramovich's parents, two sisters, and one brother are citizens and residents of the United States. Mrs. Abramovich has no close relatives in this country or abroad.

Mr. Abramovich first entered the United States at New York, N.Y., on October 31, 1939, at which time he was admitted as a visitor for pleasure. He departed to Israel in May 1947. Mr. Abramovich made several other entries as a visitor. On October 8, 1943, he executed DSS Form 301. wherein he applied under the Selective Training and Service Act of 1940, as amended, to be relieved from liability for training and service in the land and naval forces of the United States, on the ground of being a citizen of Israel, a neutral country. The records of the Director of Selective Service disclose that the beneficiary was reclassified as class IV–C on October 11, 1943. He last entered the United States at New York, N.Y., on January 20, 1956, and was admitted as a visitor for business. He has received several extensions of his stay, the last of which expired on December 25, 1956. His application for status as a permanent resident of the United States under section 245 of the Immigration and Nationality Act was denied on October 30, 1957. An appeal from this decision is pending. A visa petition for classification as a first-preference-quota immigrant, filed, in behalf of the male beneficiary on December 20, 1956, is pending conditioned upon the above appeal.

Mrs. Abramovich's only entry into the United States occurred at New York, N.Y., on March 7, 1956, at which time she and her two children were admitted as visitors for pleasure. She and her two children have received several extensions of their stay, the last of which will expire on March 6, 1958. Although she has manifested an intention to remain permanently in the United States, deportation proceedings have not been instituted pending a decision on her husband's application for adjustment of status.

Mr. and Mrs. Abramovich served honorably in the Army of Israel from February 1, 1948, to February 1, 1950, and August 1947 to March 1949, respectively.

The following additional report was submitted to the chairman of the Senate Committee on the Judiciary by the then Commissioner of Immigration and Naturalization on December 24, 1958:

DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., December 24, 1958.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR SENATOR: This refers to S. 2859, 85th Congress, in behalf of Arie Abramovich and Rivka Popper Abramovich.

The female beneficiary's status was adjusted to that of a lawful permanent resident on November 24, 1958, under the provisions of section 245 of the Immigration and Nationality Act, as amended.

Sincerely,

J. M. SWING, *Commissioner.*

The committee, after consideration of all the facts in the case, is of the opinion that the bill (S. 1943) should be enacted.

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